



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 594 OF 2025

Nilima Sunil Hatnagar

-- VERSUS --

The State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. V.S. Undre, Advocate for the petitioner.

Ms. S.V. Kolhe, A.P.P. for the Respondent/State.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 04, 2025.

The petitioner, under Article 227 of the Constitution of India, seeks direction to issue a writ of certiorari to quash and set aside the order dated 11/11/2024 passed in Criminal Revision Application No.55/2024 passed by the Learned Sessions Judge, Bhandara, and the order dated 08/09/2024 passed in Criminal Misc. Application No. 132/2023 passed by the Learned Judicial Magistrate First Class, Lakhani, District Bhandara.

2. It seems that the First Information Report was registered for the offence punishable under Section 120-B of the Indian Penal Code, 1860, and Sections 65(e), 82 and 83 of the Maharashtra Prohibition Act, 1949, against six accused persons, wherein, the petitioner is accused No.5.

3. The petitioner preferred an application under Section 457 of the Code of Criminal Procedure, 1973, for the return of 126 boxes containing bottles of liquor on *supurnama* of applicant. The said application was allowed by the Learned Judicial Magistrate First Class, Lakhani on 08/09/2023, however, it was allowed subject to the following conditions:-

“2. The concerned police attached to Lakhani Police Station are directed to hand over interim custody of the said property consisting 126 boxes containing bottles of liquor, as described in Para 1(a) of the application which are seized in Crime No. 288/2023, to the applicant namely Nilima Sunil Hatnagar till disposal of the criminal case on execution of indemnity bond of Rs. 5,00,000/- by her before the Investigating Officer and subject to condition that-

i. she shall not sell or transfer or create third party interest in the said property;

ii. she shall maintain and preserve the said property in all respects and shall not change its nature, quantity and quality;

iii. she shall produce the said property before this Court as and when required by this Court;

iv. She shall strictly comply terms and conditions of licence for storing this property and also obtain necessary permit and pass for transporting the said property before taking its custody.”

4. Being aggrieved by the order dated 08/09/2023 passed below Exh.1, the petitioner approached the Sessions Judge at Bhandara by filing Criminal Revision Application No.55/2024. The learned Additional Sessions Judge, Bhandara, was pleased to allow the Revision Application, and the petitioner was permitted to sell out the property consisting 126 boxes containing bottles of liquor, as described in Para No.1(a) of the application, which are seized in Crime No.288/2023. However, this permission was subject to the further condition of depositing the total amount of Rs. 4,35,260/- before the Trial Court within 15 days from the date of the order. Further liberty was granted to the petitioner to sell out the liquor as per the conditions of the license issued by the Excise Department.

5. The learned counsel for the petitioner submits that the petitioner is aggrieved only by the condition of depositing an amount of Rs.4,35,260/- and prays for relaxation of this condition. He further submits that the petitioner is ready to furnish a *supurtnama / indemnity bond*. To buttress his submission, he relied on the oral judgment in the case of ***VS. The State of Maharashtra***, passed in Criminal Writ Petition No.354/2024 dated 03/05/2024 by the High Court of Bombay, Bench at

Aurangabad, wherein, following observations are made:-

“ Applying the aforesaid ratio to the facts of the present case, the trial Court is justified in allowing the application filed by petitioner by imposing a condition that petitioner should execute Supurtnama of Rs.36,00,000/-. However, conditions (a), (b) and (c) imposed by the Trial Court are apparently onerous and unreasonable. Petitioner is not the owner of liquor consignment and petitioner is bound to deliver the said consignment to Pudducherry. Petitioner has undertaken not to dispute the quantity of liquor stock. Already, at the time of seizure of the said stock, panchanama is prepared, wherein the quantity is recorded. At the time of releasing the said liquor stock in favour of petitioner, indemnity bond can be obtained from petitioner that is sufficient safeguard and conditions (a), (b) and (c) imposed by the trial Court cannot be sustained.”

6. Considering the fact that the application under Section 457 of the Code of Criminal Procedure was allowed by the Learned Judicial Magistrate First Class, Lakhani, the conditions imposed, however, are not justified for the reason that, if such conditions are imposed, then the very purpose of granting custody

of the property consisting of 126 boxes would be frustrated, and the order would remain merely on paper. Furthermore, in Revision, the Learned Additional Sessions Judge has imposed a condition of depositing an amount of Rs.4,35,260/- which would not sustain in view of the observations in the case of *Goel Roadways Transport Company (supra)*. The petitioner has undertaken not to dispute the quantity of liquor stock. Hence, the following order:-

ORDER

- (i) The Criminal Writ Petition No. 594/2025 is **partly allowed**.
- (ii) The order dated 11/11/2024 passed by Additional Sessions Judge, Bhandara, is hereby modified only to the extent of depositing an amount of Rs.4,35,260/-.
- (iii) The petitioner shall execute the *supurnama / indemnity bond* of the amount of Rs.4,35,260/- instead of depositing an amount of Rs.4,35,260/-.
- (iv) The *supurnama / indemnity bond* shall be submitted before the Excise Officer at Lakhani.
- (v) The Writ petition is disposed of in above terms.

[M.M. NERLIKAR, J]